

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

Crl.O.P. No.27468 of 2010

and

M.P.Nos.1 and 2 of 2010

V.Sundaramoorthy

... Petitioner

Vs.

K.K.P.Suppliers,  
rep. by its proprietor,  
K.Kaliaperumal,  
No.6, Meenavar Colony,  
Puthupattinam,  
Kanchipuram District.  
Respondent

...

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records and quash the C.C.26 of 2010 on the file of the District Munsif-cum-Judicial Magistrate at Thirukkalukundram and thereby allow the above Crl.O.P.,.

For Petitioner : Mrs.Manjula Baskaran  
for M/s.R.Gururaj

For Respondent : Mr.A.John Britto

O R D E R

The petitioner is the accused in C.C.No.26 of 2010 on the file of the District Munsif-cum-Judicial Magistrate, Thirukalikulundram.

2. It is submitted by the learned counsel for the petitioner that to the statutory notice was issued by the respondent dated 25.2.2008, the petitioner sent reply notice dated 1.3.2008 stating that there was no liability payable by the petitioner to the respondent and account was closed even in the year 2003 and in 2004, the petitioner had settled all the dues payable to the respondent and therefore, there was no legally enforceable liability payable under the cheque. The learned counsel further submitted that in the reply notice dated 9.1.2010, the petitioner has made it clear that on 2.12.2009, he had not issued any cheque and there was no liability payable by him and the account was also closed one year earlier and the account between the petitioner and the respondent was settled by the petitioner long

back. It is therefore, submitted that the petition is liable to be ordered.

3. I am unable to accept the contention of the learned counsel for the petitioner. It is seen from the typed set of papers that on 25.2.2008, the respondent/complainant sent a notice in respect of dishonoured cheque bearing No.000474 dated 18.1.2008 drawn on Anumandhai Primary Agricultural Co-operative Bank Ltd., Tindivanam. The petitioner sent a reply notice dated 1.3.2008 in respect of that cheque. In that reply notice sent by the petitioner, he has not mentioned anything about Cheque No.000473 dated 2.12.2009. The present complaint is in respect of the dishonoured cheque bearing No.000473 dated 2.12.2009 drawn on Anumandhai Primary Agricultural Co-operative Bank Ltd., and the payee is K.K.P.Suppliers. To the notice dated 29.12.2009 issued by the respondent in respect of Cheque No.000473 dated 2.12.2009, the petitioner sent reply dated 9.1.2010 wherein the petitioner reiterated the allegation that he did not receive any amount from the respondent and he did not issue any cheque and whatever the amount payable by him was paid even in the year 2004 and the account was also closed in the year 2003.

4. Whether the petitioner is liable to pay any amount to the respondent or whether the amount due under the cheque is a legally enforceable debt payable by the petitioner are matters to be considered by the trial Court on the basis of evidence and the said issue cannot be considered at this stage. Hence, the petition is dismissed. The connected Miscellaneous Petitions are also dismissed.

asvm

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The District Munsif-cum-  
Judicial Magistrate,  
Thirukkalkundram.

+ 1 cc to Mr.A.John Britto, Advocate Sr.27487

CrI.O.P. No.27468 of 2010  
and  
M.P.Nos.1 and 2 of 2010

AD(CO)  
EU 24.06.15